
GUNNISON COUNTY COLORADO

TEMPORARY REGULATIONS FOR OIL AND GAS OPERATIONS

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Adopted by the Gunnison County Board of
County Commissioners – May 9, 2003
BOCC Resolution No. 2003-50

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Amended – May 18, 2004 BOCC Resolution No. 2004-27,
(Marked up July 18, 2007)

GUNNISON COUNTY, COLORADO
TEMPORARY REGULATIONS FOR OIL AND GAS OPERATIONS

SECTION 1-101: PURPOSE.

- A. GENERAL PURPOSE.** The purpose of these *Regulations* is to establish temporary regulations that provide reasonable limitations and safeguards for the exploration and production of oil and gas resources in the County. The goal is to provide a framework for the responsible exploration and production of oil and gas resources in a manner that conserves other natural resources, that is sensitive to surrounding land uses, and that mitigates adverse impacts to and protects the public health, safety, welfare and the environment of the County.
- B. INTENT TO NOT DUPLICATE OTHER PERMIT PROCESSES OR REQUIREMENTS.** The County intends to avoid duplicative permit processes or requirements. The County will review permit applications concurrently with other required state or federal agency permitting processes whenever possible.
- C. RELATIONSHIP TO THE GUNNISON COUNTY LAND USE RESOLUTION.** These *Regulations* are intended to be a stand-alone document and are not an amendment to or a Section of the *Gunnison County Land Use Resolution*. These *Regulations*, in lieu of the *Land Use Resolution*, shall apply to Oil and Gas operations.
- D. RELATIONSHIP TO OTHER GUNNISON COUNTY REQUIREMENTS.** Any and all Oil and Gas Operations and any and all maintenance to or on an Oil or Gas Well, production facility, or pipeline shall require compliance with all applicable Gunnison County Regulations and requirements including but not limited to the Gunnison County Standards and Specifications for Road and Bridge Construction and the Gunnison County Overweight Vehicle Permit requirements.

SECTION 1-102: AUTHORITY.

These *Regulations* are authorized by, *inter alia*, Section 30-28-101, et seq.; Section 30-28-201, et seq.; and Section 29-20-101, et seq., C.R.S.

Gunnison County Temporary Regulations For Oil and Gas Operations

May 9, 2003

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SECTION 1-103: APPLICABILITY.

- A. ALL OIL AND GAS OPERATIONS SHALL COMPLY WITH THIS REGULATION.** All Oil and Gas Operations in the unincorporated areas on public and private land within the County shall comply with these *Regulations*.
- B. OIL AND GAS PERMIT REQUIRED.** No person shall engage in, cause, allow or conduct any Oil and Gas Operations prior to obtaining an Oil and Gas Permit unless the Operations fall within the exemption in Section 1-103C.
- C. OIL AND GAS OPERATIONS EXEMPTED FROM SUBMITTAL AND REVIEW REQUIREMENTS.** The following Oil and Gas Operations are exempt from these *Regulations*:
- 1. MAPPING ACTIVITIES.** Mapping activities that do not result in any surface disturbance.
 - 2. EXISTING OIL AND GAS OPERATIONS.** Operation and maintenance of well sites, wells and pipelines, that are legal nonconforming uses under Section 1-103 D. Any expansion of a nonconforming Oil and Gas Operation shall comply with Section 1-103 D.
 - 3. COAL MINE METHANE VENTING INTEGRAL AND ESSENTIAL TO EXISTING COAL MINING OPERATION.** Coal mine methane venting from a permitted coal mine, that does not produce or distribute methane off-site, and that is an integral and essential component of the existing coal mine, shall not be subject to these *Regulations*.
- D. NONCONFORMITIES.** Within unincorporated Gunnison County, there are Oil and Gas Operations that were legally established before the effective date of these *Regulations* that do not conform to the legal requirements of these *Regulations*. The purpose of this Section is to regulate those nonconforming Operations.
- 1. NON-ABATEMENT PROVISION.** Unless otherwise stated herein, it is the intent of this subsection that nonconforming

Oil and Gas Operations that were legally established before the effective date of this *Regulation* be permitted to continue.

2. **CONTINUED OPERATION OF LEGALLY ESTABLISHED NONCONFORMING OIL AND GAS OPERATIONS SHALL BE ALLOWED.** Legally established non-conforming Oil and Gas Operations, including ordinary repairs and maintenance thereto, shall be allowed to continue, so long as they remain otherwise legal and comply with the requirements of these *Regulations*.
3. **LIMITED EXTENSION OR EXPANSION.** A legal nonconforming Oil or Gas Operation shall only be extended, expanded or altered in a manner that decreases or does not expand, the nonconforming use
 - a. **EXTENSION OR EXPANSION ONTO LAND OUTSIDE OF PERMITTED AREA.** Any extension or expansion of a legal nonconforming Oil or Gas Operation onto land outside of a specified area used prior to the adoption of these *Regulations* shall comply with the requirements of these *Regulations*.
4. **RELOCATION.** A legal nonconforming Oil or Gas Operation shall not be moved, in whole or in part, unless the relocation brings the Oil or Gas Operation into compliance with the requirements of this *Regulation*.
5. **ABANDONMENT OF NONCONFORMING OIL OR GAS OPERATION.** If any legal nonconforming Oil or Gas Operation is abandoned for a period of one year, renewal of that use or the use of that structure shall not be initiated until after a review by the Planning Department has determined that the renewed use will not pose a threat to public health, safety, welfare or the environment. For the purpose of this subsection, "abandonment" means the intent to not continue the legally established nonconforming Oil or Gas Operation, coupled with the discontinuance of the nonconforming Oil or Gas Operation.
6. **DAMAGE OR DESTRUCTION.** A legal nonconforming Oil or Gas Operation that is demolished or destroyed by an act of God or through any manner not willfully accomplished by or for the owner may be restored within one year of the damage or destruction as of right, regardless of the extent of

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demolition or destruction, conditioned upon issuance of each required permit, pursuant to these *Regulations*. A one time, two-year extension of the initial year may be granted by the Planning Director upon findings that:

- a. **Hardship.** There would be a substantial hardship to the owner without the extension; and
- b. **Substantial effort to restore.** Within the first eight months after the destruction, the owner has substantially cleaned up and removed, if unusable, the damaged Operation.

E. CLASSIFICATION OF IMPACT REVIEW FOR OIL AND GAS PERMIT. Unless specifically exempt, Oil and Gas Operations shall be classified and reviewed within one of the three following classes of Oil and Gas Permits:

1. OIL AND GAS PERMIT FOR NO SIGNIFICANT IMPACT OIL AND GAS OPERATION. An application for an Oil and Gas Permit for a No Significant Impact Oil and Gas Operation shall be reviewed administratively by the Planning Department under Section 1-106A. An Oil and Gas Operation shall be classified as a No Significant Impact Oil and Gas Operation if it consists solely of the following elements:

- a. The Oil and Gas Operation, without mitigation, in its proposed location is unlikely to have any significant adverse impact to the County taking into consideration the Oil and Gas Operation Standards in Section 1-107; and
- b. The Oil and Gas Operation will consist solely of the installation or construction by one Operator of no more than five (5) wells, none of which are within one mile of each other, during the same calendar year, and there is no other well(s) existing or proposed within one mile of the proposed well(s); or
- c. The Oil and Gas Operation will consist solely of the installation or construction by one Operator of no more than five (5) flowlines or gathering lines within one mile of each other during the same calendar year; or

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- d. The Oil and Gas Operation will consist solely of the installation or construction by one Operator of storage yards and construction staging areas disturbing one acre or less, during the same calendar year; or
- e. The Oil and Gas Operation is necessary to protect public health, safety, welfare or the environment.

For purposes of determining if an Oil and Gas Operation is a No Significant Impact Oil and Gas Operation, all proposed activities of the Operator within unincorporated Gunnison County shall be taken into consideration.

2. **OIL AND GAS PERMIT FOR A MINOR OIL AND GAS OPERATION.** Applications for a Minor Oil and Gas Operation shall be reviewed under Section 1-106B by the Planning Department and will require a public hearing and decision by the Planning Commission. An Oil and Gas Operation shall be considered a Minor Oil and Gas Operation if it consists of:

- a. The installation or construction by one Operator of a well within one mile of an existing or proposed well; or
- b. The installation or construction by one Operator of six (6) to ten (10) wells, none of which are within one square mile of each other during the same calendar year, and there is no other well(s) existing or proposed within one mile of the proposed well(s); or
- c. The installation or construction by one Operator of six (6) to ten (10) flowlines or gathering lines, all within a square mile of each other during the same calendar year.

3. **OIL AND GAS PERMIT FOR MAJOR OIL AND GAS OPERATION.** An Oil and Gas Operation that is not classified or reviewed under Section 1-106A or under Section 1-106B shall require an Oil and Gas Permit for a Major Oil and Gas Operation. An application for an Oil and Gas Permit for a Major Oil and Gas Operation shall be reviewed under Section 1-106C by the Planning Department, and shall require a joint public hearing by the Planning Commission and the Board with a recommendation from the

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Planning Commission to the Board, and decision by the Board.

SECTION 1-104: APPLICATION SUBMITTAL REQUIREMENTS FOR OIL AND GAS PERMITS

This Section shall apply to those Oil and Gas Operations not exempt under 1-103. C.

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A. APPLICATION TO PLANNING DEPARTMENT. An applicant seeking an Oil and Gas Permit to conduct an Oil and Gas Operation shall submit an application to the Planning Department containing the information in this Section 1-104. An applicant may provide a copy of an Application for Permit to Drill or other application submitted to the Colorado Oil and Gas Conservation Commission, and/or federal Environmental Assessment (EA) or Environmental Impact Statement (EIS) as documentation for one or more of the following submittal requirements in this Section 1-104 if it contains information sufficient to demonstrate compliance with these regulations and that information is highlighted.

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B. PERMIT SUBMITTAL REQUIREMENTS FOR OIL AND GAS OPERATIONS. An applicant for a permit to conduct Oil and Gas Operations shall submit the following information:

1. APPLICANT. The name, address, telephone and fax numbers, and e-mail address for the applicant; and if the applicant is to be represented by an agent, a notarized letter signed by the applicant authorizing the agent to represent the applicant and also stating the same information for the agent.

2. SURFACE OWNERSHIP. Documentation of surface ownership, evidence of surface owner notification, and copies of any surface ownership agreements and leases affecting the area where the Oil and Gas Operation will be conducted. Name, address, telephone and fax numbers and e-mail address of the owner of the property.

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3. MINERAL OWNER. Documentation of mineral ownership, including name, address, telephone and fax numbers and e-mail address of the owner of the mineral rights.

4. **PARCEL LOCATION.** The legal description (referencing lot and block or tract numbers, homesteads, or metes and bounds), property address and common description of the parcel on which the Operation is proposed to be located. A copy of the recorded deed or lease to the parcel should be included.

5. **IDENTIFICATION OF PREVIOUSLY APPROVED USES.** List any permits which have been previously approved for the parcel on which the Operation is proposed.

6. **CHARACTERISTICS AND CURRENT CONDITION OF THE OPERATION LOCATION.** Identification of physical characteristics and current conditions of the site where the Operation is proposed to occur, including streams, irrigation ditches, ponds, soils, roads, vegetation, geologic hazards, and any other characteristics requested by the Planning Department to determine potential impacts. Indications if trees or other vegetation have been removed and changes caused either by weather-related or human activity within the past five years.

7. **LIST OF ADJACENT LANDOWNERS.** A listing of all landowners and land uses that are adjacent to the boundaries of the parcel on which the project is proposed, including all properties that are separated from the parcel by a roadway or would be adjacent to the parcels except for the existence of the roadway. The source for the best-available information to identify those landowners is the Gunnison County Assessor's Office.

8. **VICINITY MAP.** A vicinity map which shall, at a minimum, include the following:

- a. **OPERATION LOCATION.** Location of the Operation on a United States Geological Survey quadrangle map or on a recorded plat if the proposed Oil and Gas Operation is within an approved subdivision, with the location highlighted so that it is easy to see.

- b. **TOPOGRAPHIC FEATURES.** Streams, lakes, ponds, wetlands, contour lines and elevations, within one mile of the proposed well pad.

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- c. **ROADS.** All public and private roads that traverse and/or provide access to the proposed Oil and Gas Operation, and identification of the public or private entity having jurisdiction over each road(s).
- d. **EASEMENTS.** Easements recorded or historically used that provide access to or across, or other use of, the parcel.
- e. **BOUNDARIES OF DISTRICTS, MUNICIPALITIES OR SUBDIVISIONS.** Locations of special district boundaries, municipalities or subdivisions within one mile of the ~~site,~~
- f. **PROXIMITY OF OTHER WELLS AND OTHER OIL AND GAS OPERATIONS.** Location of other wells and other Oil and Gas Operations within one mile of the ~~site,~~

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- 9. **SITE PLAN MAP.** A map with north arrow and appropriate scale for the parcel where the Oil and Gas Operation will occur, indicating the following:

- a. **EASEMENTS AND RIGHTS-OF-WAY.** Utility easements and rights-of-way.
- b. **IMPROVEMENTS.** Existing improvements.
- c. **PROPOSED FACILITIES.** Proposed facilities such as structures, pipelines, tanks, wells, pits, flow lines, impoundment facilities, staging and storage areas and equipment.
- d. **SITE FEATURES.** Site features such as floodplains, waterbodies, drainage patterns, aquatic habitat, vegetative cover, wildlife migration routes and significant wildlife habitat.
- e. **TOPOGRAPHY.** Existing and proposed topography at five-foot intervals or some other interval established by the Planning Department as necessary to portray the direction and slope of the area affected by the Oil and Gas Operation.

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f. **LEASE BOUNDARY.** All boundaries of the lease(s) upon which the Operation will take place.

10. **APPLICATIONS AND PERMITS.** Copies of all local, state and federal applications authorizing or required for the Operation, and permits, when issued.

11. **OPERATION PLAN.** A plan including the method and schedule for drilling, completion, transporting, production and post-operation.

12. **WEED MANAGEMENT PLAN.** A plan for the management and prevention for noxious weeds on the site.

13. **ACCESS AND TRANSPORTATION ROUTES.** A map that identifies the access route to, and within the parcel, and a narrative estimating the number and types of vehicles anticipated per day, including weights, that will travel over the route.

14. **IDENTIFICATION OF WATER STRUCTURES.** Identification of irrigation ditches and other water structures, ownership of water rights appurtenant thereto, and evaluation of any impacts to the structures, water rights or water quality.

15. **ROADWAY IMPACT ANALYSIS.** An analysis of the impacts of the Operation to the roadway system within the County.

16. **WILDLIFE AND WILDLIFE HABITAT ANALYSIS.** After consultation with the Colorado Division of Wildlife and the U.S. Fish and Wildlife Service, the applicant shall provide an analysis of existing wildlife and sensitive wildlife habitat, an evaluation of the impacts of the Operation on wildlife and sensitive wildlife habitat, and proposed mitigation.

17. **VEGETATION.** A written description of the type, character, and density of existing and proposed vegetation on the parcel, a summary of the impacts of the Operation on vegetation, and proposed mitigation.

18. **EMERGENCY RESPONSE PLAN.** An emergency response plan that addresses fire protection and hazardous spills, including the name and contact information for the

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applicant's incident commander, proposed signage, access/evacuation routes, and health care facilities anticipated to be used. The plan shall include a provision for the Oil and Gas Operator to reimburse the appropriate emergency response service providers for costs incurred in connection with the emergency.

19. WATER QUALITY NON-POINT SOURCE IMPACTS.

a. IDENTIFICATION OF ALL WATER BODIES. An inventory and location of all water bodies within one mile of the proposed Oil and Gas Operation.

b. DESCRIPTION OF EXISTING WATER QUALITY. A description of existing water quality of all water bodies within one mile of the parcel, based upon a current baseline water quality analysis.

c. NON-POINT SOURCE IMPACTS TO WATER QUALITY. A description of potential non-point source pollution associated with the proposed Oil and Gas Operation and proposed mitigation.

d. MITIGATION AND AVOIDANCE. Proposed avoidance and mitigation measures to minimize the water quality impacts associated with the Operation. Proposed mitigation may include an erosion control plan required under this Section 1-104.

20. CULTURAL SURVEY. A cultural, historical, and archeological survey of the parcel prepared by a qualified professional.

21. DRAINAGE AND EROSION CONTROL PLAN. A plan that identifies existing and proposed drainage patterns and the methods for controlling erosion during construction and operation phases of the Operation.

22. WILDFIRE HAZARDS. An assessment of wildfire hazards within one mile of the site, and a plan for mitigating wildfire hazards.

23. GEOLOGIC HAZARDS. An assessment of the geologic hazards within one mile of the site, and a plan for mitigating geologic hazards.

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24. EXISTING AND FUTURE LAND USES. A written summary of the existing uses of the parcel and the proposed future land uses of the parcel after completion of the Operation.

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25. TECHNICAL INFEASIBILITY WAIVER. Documentation of the basis for any technical infeasibility waiver from the Oil and Gas Operation Standards that the applicant may request pursuant to Section 1-107P. of these *Regulations*.

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SECTION 1-105: COORDINATION WITH STATE OR FEDERAL ACTIONS AND COUNTY PERMIT PROCESS.

Final action by the County on an Oil or Gas Permit application may be delayed until any required Environmental Assessment (EA), Environmental Impact Statement (EIS) or other permit by a state or federal agency is issued, so that the County will have the benefit of the analysis and determinations made by other entities in reaching its own decision.

SECTION 1-106: PERMIT REVIEW PROCEDURES FOR OIL AND GAS OPERATIONS.

A. GENERAL REVIEW PROCEDURES.

1. DETERMINATION OF COMPLETENESS BY PLANNING DEPARTMENT. The Planning Department shall determine whether the application is complete and includes all of the required information. The Planning Department shall, within ~~(ten)~~ 10 days of receiving the application, notify the applicant in writing that the application is either complete or incomplete, or shall indicate a date by which such determination shall reasonably be made.

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2. APPLICATION IS NOT COMPLETE. If the application is not complete, the Planning Department shall inform the applicant of the deficiencies in writing and shall take no further action on the application until the deficiencies are remedied.

a. FAILURE TO CORRECT CONSTITUTES WITHDRAWAL. If the applicant fails to correct the deficiencies within 60 days of the postmarked or certified date of the mailing of the notification of

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incompleteness, the application shall be considered withdrawn.

3. **APPLICATION IS COMPLETE.** If the application is complete, the Planning Department shall certify it as complete, and if required, assign the application an agenda date with the applicable review body on the next available agenda, and provide notification of the meeting date to the applicant.

- a. **COMPLETENESS IS NOT A DETERMINATION OF COMPLIANCE.** A determination that an application is complete shall not constitute a determination that it complies with the applicable standards of these *Regulations*.

4. **REVIEW BY REFERRAL AGENCIES.** Upon determination that the application is complete, the Planning Department may require the application materials or any portion thereof be submitted for professional analysis and recommendations by any other review agency, organization, or technical consultant deemed appropriate and necessary to complete the review, including other County offices and departments, municipal, state, or federal agencies having an interest in or authority over all or part of the proposal, and legal consultants. The referral agency review may include, but is not limited to, the Gunnison County Public Works Department, Colorado Division of Wildlife, Colorado Geological Survey, and the Colorado Oil and Gas Conservation Commission. The applicant shall be responsible for any costs associated with the referral. The referral review and comment period shall be twenty one (21) days from the date that the application is deemed complete.

B. NO SIGNIFICANT IMPACT OIL AND GAS OPERATION ADMINISTRATIVE REVIEW.

1. **DETERMINATION OF COMPLETENESS BY PLANNING DEPARTMENT.** The Planning Department shall make a determination of completeness following the procedure in Section 1-106A., prior to beginning any review of the application.

2. **REVIEW BY REFERRAL AGENCIES.** Upon determination that the application is complete, the Planning Department may

require the application materials or any portion thereof to be submitted to a referral entity for review and comment.

3. PUBLIC NOTICE. Public notice shall be given in compliance with Section 1-108 and the following:

a. **MAILING OF NOTICE.** The applicant shall be responsible for mailing a notice to affected parties as that term is used in Section 1-108 A. 2.

b. **CERTIFIED MAIL.** The notice shall include a description of the Oil and Gas Operation, including a map showing the location of the proposed Operation and shall be mailed by certified mail, return receipt requested.

c. **PUBLICATION OF NOTICE.** The Planning Department shall be responsible for publishing a notice of application and shall place a legal notice in the County's official newspaper(s) and in the Delta County Independent. The applicant shall be responsible for the cost of publication.

d. **COMMENT PERIOD.** The comment period shall be fifteen (15) days from the latter of the date of certified mailing or the publication date of the notice of application.

4. **ADMINISTRATIVE DECISION.** Within thirty (30) days of the Notice to affected parties, the Planning Department may approve, approve with conditions, deny the application, or refer the application to the Planning Commission for review, based upon compliance of the Oil and Gas Operation with the Oil and Gas Operation Standards set forth in Section 1-107.

5. **NOTICE OF ADMINISTRATIVE DECISION.** Within five (5) working days of the decision on the application for a No Significant Impact Oil and Gas Operation Permit, the Planning Department shall notify in writing the applicant, the County Manager, the Board, the County Attorney, and the Delta County Planning Department of the decision to approve, approve with conditions or deny the application.

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6. **RECONSIDERATION OF ADMINISTRATIVE DECISION BY BOARD OF COUNTY COMMISSIONERS.** Within fourteen (14) calendar days after receipt of the Notice of Administrative Decision, the Board may, at its discretion, decide to reconsider the Administrative Decision.

a. **SCHEDULE RECONSIDERATION.** If the Board decides to reconsider the Administrative Decision, the Planning Department shall schedule a hearing for reconsideration of the Administrative Decision to be held within twenty one (21) days of receipt by the Board of the Notice of Administrative Decision.

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b. **PUBLIC NOTICE.** Notice of the reconsideration shall be published no less than thirty (30) days prior to the date of the hearing, and written notice to adjacent property owners within 1500 feet of the parcel shall be mailed at least twenty (20) days prior to the hearing. The County will be responsible for publication of the Public Notice. The applicant shall be responsible for the cost of publication.

c. **DECISION BY THE BOARD.** The Board may affirm, reverse and/or amend the Administrative Decision. The Board may consider the evidence that was before the Planning Department, and any additional evidence that may be presented to the Board regarding compliance with the requirements of these *Regulations*.

7. **APPEAL TO BOARD OF COUNTY COMMISSIONERS.**

Any person aggrieved by the Administrative Decision on a No Significant Impact Oil and Gas Operation permit application may appeal the Administrative Decision to the Board.

a. **NOTICE OF APPEAL.** A written notice of appeal setting forth the reasons why the Board should revise or reverse the Administrative Decision shall be submitted to the Planning Department within ten (10) days of the Notice of Administrative Decision.

b. **SCHEDULE PUBLIC HEARING.** The Planning Department shall schedule a hearing for the Board to

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hear the appeal and render its decision within forty-five (45) days of receipt of the Notice of Appeal.

- c. **PUBLIC NOTICE.** Notice of the hearing shall be published by the Planning Department no less than thirty (30) days prior to the date of the hearing, and written notice by the Planning Department shall be given to affected parties, that term is used in Section 1-108 A.2., at least twenty (20) days prior to the hearing. The County shall be responsible for publishing the Public Notice. The appellant shall be responsible for the cost of publication. If the Planning Department makes reasonable good faith efforts to accomplish the notice responsibilities identified above, then the failure of any property owner to receive notice shall not affect the validity of hearing or other conduct of the Board.
- d. **DECISION BY THE BOARD.** The Board may affirm, reverse and/or amend the Planning Department's Administrative Decision. The Board may consider the evidence that was before the Planning Department, and any additional evidence that may be presented to the Board regarding compliance with the requirements of these *Regulations*.

C. MINOR OIL AND GAS OPERATION PERMIT REVIEW.

1. REVIEW BY PLANNING DEPARTMENT.

- a. **DETERMINATION OF COMPLETENESS BY PLANNING DEPARTMENT.** The Planning Department shall make a determination of completeness following the procedure in Section 1-106A, prior to beginning any review of the application.
- b. **REVIEW BY REFERRAL AGENCIES.** Upon determination that the application is complete, the Planning Department may require the application materials or any portion thereof to be submitted to a referral entity for review and comment.
- c. **PLANNING DEPARTMENT REPORT.** The Planning Department shall prepare a report that identifies

whether the Oil and Gas Operation complies with the Oil and Gas Operation Standards set forth in Section 1-107 of these *Regulations*.

2. **REVIEW BY PLANNING COMMISSION.** The application for a Minor Oil and Gas Operation Permit shall be considered by the Planning Commission following a properly noticed public hearing.
 - a. **SCHEDULE PUBLIC HEARING BY PLANNING COMMISSION.** A public hearing by the Planning Commission shall be scheduled within forty-five (45) calendar days of the date of completeness determination.
 - b. **NOTICE OF HEARING.** Public notice shall be given in compliance with Section 1-108 and the following:
 - (1) **PUBLICATION OF NOTICE.** The notice shall be published no less than fifteen (15) days prior to the date of the hearing.
 - (2) **NOTICE TO AFFECTED PARTIES.** No less than fifteen (15) days prior to the date of the public hearing by the Planning Commission, the applicant shall provide written notice of the public hearing to affected parties as that term is used in Section 1-108 A. 2.
 - (3) **CERTIFIED MAIL.** The applicant shall mail the Notice by certified mail, return receipt requested.
3. **PLANNING COMMISSION DECISION.** Following the public hearing, the Planning Commission shall approve, approve with conditions, or deny the application based upon the Oil and Gas Operation Standards set forth in Section 1-107 of these *Regulations*.
4. **NOTICE OF PLANNING COMMISSION DECISION.** Within ten (10) working days of the Planning Commission decision on the application for a Minor Oil and Gas Operation Permit, the Planning Department shall notify in writing the applicant, the County Manager, the Board, the County Attorney, and

the Delta County Planning Department of the decision to approve, approve with conditions or deny the application.

5. APPEAL TO BOARD OF COUNTY COMMISSIONERS.

Any person aggrieved by the Planning Commission Decision on a Minor Oil and Gas Operation Permit application may appeal the decision to the Board of County Commissioners.

- a. **NOTICE OF APPEAL.** A written notice of appeal setting forth the reasons why the Board should revise or reverse the Planning Commission decision shall be submitted to the Planning Department within ten (10) days of the Notice of Planning Commission Decision.
- b. **SCHEDULE PUBLIC HEARING.** The Planning Department shall schedule a public hearing for the Board to hear the appeal and render its decision within forty-five (45) days of receipt of the Notice of Appeal.
- c. **PUBLIC NOTICE.** Notice of the public hearing shall be published no less than thirty (30) days prior to the date of the hearing, and written notice to affected parties as that term is used in Section 1-108 A. 2 shall be mailed at least twenty (20) days prior to the hearing. The County shall be responsible for publishing the Public Notice. The appellant shall be responsible for the cost of publication.
- d. **DECISION BY THE BOARD.** The Board may affirm, reverse and/or amend the Planning Commission's decision on the Minor Oil and Gas Operation Permit. The Board may consider the evidence that was before the Planning Commission, and any additional evidence that may be presented to the Board regarding compliance with the requirements of these *Regulations*.

D. MAJOR OIL AND GAS OPERATION PERMIT REVIEW.

1. REVIEW BY PLANNING DEPARTMENT.

- a. **DETERMINATION OF COMPLETENESS BY PLANNING DEPARTMENT.** The Planning Department shall make a determination of

Gunnison County Temporary Regulations For Oil and Gas Operations

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May 9, 2003

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completeness following the procedure in Section 1-106A., prior to beginning any review of an application under these *Regulations*.

- b. **REVIEW BY REFERRAL ENTITIES.** Upon determination that the application is complete, the Planning Department may require the application materials or any portion thereof to be submitted to a referral entity for review and comment.
- c. **PLANNING DEPARTMENT REPORT.** The Planning Department shall prepare a report that identifies whether the Oil and Gas Operation complies with the Oil and Gas Operation Standards set forth in Section 1-107.

2. **REVIEW BY PLANNING COMMISSION.** The application for a Major Oil and Gas Operation Permit shall be considered by the Planning Commission following a properly noticed public hearing to be conducted jointly with the Board of County Commissioners.

- a. **SCHEDULE JOINT PUBLIC HEARING BY BOARD AND PLANNING COMMISSION.** A joint public hearing by the Board and the Planning Commission shall be scheduled within forty-five (45) calendar days of the date of completeness determination.
- b. **PUBLIC NOTICE OF HEARING.** Public notice shall be given in compliance with Section 1-108 and the following:
 - (1) **PUBLICATION OF NOTICE.** The notice shall be published no less than thirty (30) days prior to the date of the hearing.
 - (2) **NOTICE TO AFFECTED PARTIES.** No less than thirty (30) days prior to the date of the public hearing, the applicant shall provide written notice to affected parties as that term is used in Section 1-108 A. 2.
 - (3) **CERTIFIED MAIL.** The applicant shall mail the Notice by certified mail, return receipt requested.

3. PLANNING COMMISSION RECOMMENDATION.

Following the joint public hearing, the Planning Commission shall recommend to the Board that the application for a Major Oil and Gas Operation Permit be approved, approved with conditions, or denied, based upon the Oil and Gas Operation Standards set forth in Section 1-107.

4. REVIEW AND DECISION BY BOARD OF COUNTY COMMISSIONERS.

Following the joint public hearing, and after considering the recommendation of the Planning Commission, the Board shall approve, approve with conditions, or deny the application for a Major Oil and Gas Operation Permit, based upon the Oil and Gas Operation Standards set forth in Section 1-107. If the Operation complies with the Oil and Gas Operation Standards, the application shall be approved. If the Operation does not comply with the Oil and Gas Operation Standards, it shall be denied, or conditions shall be imposed to ensure compliance with the Oil and Gas Operation Standards.

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SECTION 1-107: OIL AND GAS OPERATION STANDARDS.

An Oil and Gas Operation shall comply with the following standards and criteria unless a Technical Infeasibility Waiver is granted under Section 1-107P:

A. DRAINAGE AND EROSION CONTROL.

The Oil and Gas Operation shall not cause significant erosion or sedimentation and shall be conducted in accordance with the drainage and erosion control plan.

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B. ACCESS ROADS.

All public access roads, under the jurisdiction of Gunnison County, shall be constructed and maintained in compliance with the *Gunnison County Standard Specifications for Road and Bridge Construction*, as necessary to accommodate the traffic and equipment related to the Oil and Gas Operation and emergency vehicles.

C. PUBLIC ROADWAY AND TRAFFIC IMPACTS.

1. INGRESS AND EGRESS.

Ingress and egress points to public roads shall be located, maintained and improved to assure adequate capacity for efficient movement of existing and projected traffic volumes and to minimize traffic hazards.

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2. **MAINTENANCE AGREEMENT OR FINANCIAL ASSURANCE.** If the projected use of the public roads resulting from the Oil and Gas Operation will result in a need for an increase in roadway maintenance or snow removal, the County shall require the Operator to: i) enter into an agreement with the County whereby the operator provides for private maintenance and snow removal, or reimburses the County for such increased costs; and/or ii) provide a bond or other financial assurance in an amount acceptable to the County to cover the costs of impacts to the roads.

- D. **WILDLIFE AND WILDLIFE HABITAT.** The Oil and Gas Operation shall not cause significant degradation of wildlife or sensitive wildlife habitat.

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- E. **LIVESTOCK AND LIVESTOCK GRAZING.** The Oil and Gas Operation shall not cause significant impact to livestock, grazing permits, or grazing permittees. Fencing or other agreements between private grazing operations and the Oil and Gas Operator may be used to satisfy this requirement.

- F. **RECREATION IMPACTS.** The Oil and Gas Operation shall not cause a significant degradation in the quality or quantity of recreational activities in the County such as hunting, hiking, skiing or related activities.

- G. **WATER QUALITY.**

1. **NO SIGNIFICANT DEGRADATION.** The Oil and Gas Operation shall not cause significant degradation in the quality or quantity of surface waters from the addition of non-point source pollution.

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2. **WATER WELLS.** The Oil and Gas Operation shall not cause significant degradation in the water quality or water pressure of any public or private water wells.

- H. **WATERBODY SETBACKS.** Activities associated with the Oil and Gas Operation shall be located a minimum of 500 feet from any waterbody unless such a setback would interfere with spacing requirements established by the Colorado Oil and Gas Conservation Commission.

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- I. **CULTURAL AND HISTORIC RESOURCES.** The Oil and Gas Operation shall not cause significant degradation of cultural or historic resources.
- J. **WILDFIRE HAZARD.** The Oil and Gas Operation shall not cause a significant risk of wildfire hazard.
- K. **GEOLOGIC HAZARDS.** The Oil and Gas Operation shall not cause a significant risk of geologic hazards.

L. **EMERGENCY RESPONSE.** Oil and Gas Operations shall provide a written emergency response plan for the potential emergencies that may be associated with the operation of the facilities. This shall include, but not be limit to any or all of the following: explosions, fires, gas or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas emissions, and hazardous material vehicle accidents or spills. Operation specific emergency preparedness plans are required for any Oil and Gas Operation that involves drilling or penetrating through known zones of hydrogen sulfide gas. The plan shall include a provision for the Operator to reimburse the appropriate emergency response service provider for costs incurred in connection with the emergency.

P. **TECHNICAL INFEASIBILITY WAIVER.** One or more of the Oil and Gas Operation Standards set forth in this Section 1-107 may be waived during the application process, if the Operator demonstrates to the satisfaction of the County that it is technically infeasible to comply with the standard(s). To be granted a waiver from a standard for technical infeasibility, the burden is on the Operator to demonstrate one of the following with clear and convincing evidence:

1. **CONFLICT WITH STATE OR FEDERAL REGULATION.** Conduct of the Oil and Gas Operation in compliance with the County standard would result in an operational conflict with a mandatory state or federal oil and gas regulation, condition or other requirement; or

2. **NO TECHNOLOGY AVAILABLE.** There is no economical technology commercially available to conduct the Oil and Gas Operation in compliance with the County standard, and the applicant will implement the best available technology to

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¶ **<#>ACCESS TO RECORDS.** Oil and Gas Operators shall make and keep appropriate books and records covering their Oil and Gas Operations. Such books and records shall be kept on file and be available for inspection by the County during reasonable times for a period of at least five (5) years from final permit date of approval.¶

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¶ **1. DEVELOPMENT IMPROVEMENT AGREEMENT SHALL BE REQUIRED.** When mitigation is a required component of an Oil and Gas Permit, the Board shall require as a condition of permit approval that the Operator execute and fund with Gunnison County a Development Improvement Agreement acceptable to Gunnison County in form and substance, and amount and type of security. The Development Improvement Agreement shall constitute the Operator's agreement to perform all conditions, identified as requirements of Permit approval. The Develo... [5]

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conduct the Oil and Gas Operation in compliance with the County standard to the maximum extent feasible; ~~and,~~

a. The waiver will not cause substantial injury to the owner or occupant of adjacent land(s); and

b. The waiver will not cause substantial injury to the environment.

SECTION 1-108 PUBLIC NOTICE.

A. **PUBLIC NOTICE REQUIREMENTS.** The following shall be required for any required public notice:

1. **PUBLICATION OF NOTICE.** The Planning Department shall be responsible for publishing the notice of public hearing and shall place a legal notice in the County's official newspaper and in the Delta County Independent. The legal notice shall be published at least once. The notice shall be published no fewer than the identified days prior to the date of the hearing, as required in each individual Oil and Gas Permit Section. The applicant shall be responsible for the cost of publication.

2. NOTICE TO AFFECTED PARTIES.

a. **ADJACENT PROPERTY OWNERS.** The applicant shall provide written notice to owners of real property within 1500 feet of the subject parcel when the Oil and Gas Operation is located on private land, and within 1500 feet of the Section (640 acres) in which the Oil and Gas Operation is located when the Operation is located on public land. The notice shall be prepared by the Planning Department and a copy provided to the applicant for mailing. The notice shall include a notice of the hearing, a description of the Oil and Gas Operation and a map showing the location of the proposed Operation. The list of property owners to whom notice is mailed shall be compiled by the applicant using the most current list of property owners on file with the Office of the Gunnison County Assessor. The burden is on the applicant to obtain complete and accurate current names and addresses for property owners to whom notice shall be given.

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~~2. CONFLICT WITH STATE OR FEDERAL REGULATION. Conduct of the Oil and Gas Operation in compliance with the County standard would result in an irreconcilable conflict with a mandatory state or federal oil and gas regulation, condition or other requirement; and~~¶

~~a. The state or federal requirement cannot be waived; and~~¶

~~b. Compliance with both the state or federal requirement and the County standard is not technically possible; and~~¶

~~c. The applicant will design, construct and operate the Oil and Gas Operation in compliance with County standards to the maximum extent feasible.~~¶

~~3. ADDITIONAL CONDITIONS NECESSARY TO OBTAIN A TECHNICAL INFEASIBILITY WAIVER. No Technical Infeasibility Waiver shall be granted unless:~~¶

~~a. The waiver will not cause substantial injury to the owner or occupant of adjacent land(s); and~~¶

~~b. The waiver will not cause substantial injury to the environment.~~¶

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- b. **OWNERS OF WATER RIGHTS.** The applicant shall make reasonable efforts to provide written notice to any owners of water rights in any ditches or other water structures that may reasonably be impacted by the proposed Oil and Gas Operation. The list of owners of such water rights who may reasonably be affected by the Operation shall be compiled by the applicant by contacting the local water commissioner who represents the Colorado Division of Water Resources.
 - c. **OWNERS OF NON-ADJACENT PROPERTY WITHIN AN EXISTING SUBDIVISION, OR 35-ACRE TRACT DEVELOPMENT.** If any part of an existing subdivision or 35-acre tract development is within 1500 feet of the subject parcel when the Oil and Gas Operation is located on private land, or within 1500 feet of the Section (640 acres) in which the Oil and Gas Operation is located when the Operation is located on public land, the applicant shall notify all of the surface landowners within the existing subdivision or 35-acre tract development.
- 3. **CERTIFIED MAIL.** The applicant shall mail the public notice by certified mail, return receipt requested, to all required property owners of record and owners of water rights. The applicant shall submit a list of such property owners and owners of water rights and proof of mailing to the Planning Department. For a notice of public hearing, the applicant shall provide the list of property owners and proof of mailing to the Planning Department at least one week prior to the public hearing.
 - 4. **VALIDITY OF NOTICE.** If the applicant makes reasonable good faith efforts to accomplish the notice responsibilities identified above, then the failure of any property owner to receive notice shall not affect the validity of hearing or other conduct of the Board.

SECTION 1-109 CONDUCT OF PUBLIC HEARING.

- A. **HEARING PROCESS.** A public hearing shall be conducted in accordance with the following process:

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1. **RIGHTS OF ALL PERSONS.** Any person may appear at a public hearing and submit evidence, including oral testimony, either individually or as a representative of an organization. Comment may also be submitted in written form before or during the hearing, or within a period of time after the hearing has closed as designated by the review body chairperson.
2. **ORDER OF PROCEEDINGS.** The order of the proceedings shall be as follows:
 - a. **CONFIRMATION OF ADEQUATE PUBLIC NOTICE.** The Planning Department shall report whether or not the required notice has been accomplished.
 - b. **APPLICANT'S PRESENTATION.** At its option, the applicant may make an oral or a written presentation that informs persons at the hearing of the nature, location, and scope of the proposed Operation. This presentation shall not be made by County staff or consultants, and may be waived by the Chairperson if there are no members of the public at the hearing, and the applicant has previously explained the proposed Operation to the review body conducting the hearing.
 - c. **QUESTIONS BY REVIEW BODY.** The review body may ask questions of the Planning Department, or the applicant, or anyone else who is present.
 - d. **PUBLIC COMMENTS.** Public comments shall be heard. Written comments that have been received before the hearing shall be reported by the Planning Department and acknowledged to be part of the hearing record.

- (1) **EX PARTE COMMUNICATIONS.** Members of decision-making bodies shall not engage in *ex parte* communication about applications under review or reasonably anticipated to come under review. If an *ex parte* communication is attempted by telephone, in person, by telefax or other means outside of a regularly scheduled meeting, the member of the decision-making body involved shall first

attempt to stop the party from the prohibited behavior, then document the communication and notify the Planning Director by telephone or in written form. The Planning Director shall then enter that documentation into the public file. The Planning Director shall report that documentation at the next meeting or hearing on the subject application. No *ex parte* communication shall be considered by a decision-making body, or any of its members, in making a decision on an Oil and Gas Permit matter.

- e. **APPLICANT RESPONSE.** The applicant may respond to any comments made by the public, the Planning Department, or the review body.
 - f. **PLANNING DEPARTMENT RESPONSE.** The Planning Department may respond to any statement made by the applicant, the public, or the review body.
3. **TIME LIMITS FOR TESTIMONY.** The chairperson conducting the public hearing shall set reasonable time limits for testimony or presentation of evidence. If any testimony or evidence is so limited, the person offering that testimony or evidence shall have an opportunity to enter it into the record in writing at the public hearing.
4. **CONTINUANCE OF PUBLIC HEARING.** At the conclusion of the hearing, the body conducting it may continue the public hearing to a fixed date and time. An applicant shall have the right to request, and be granted on a showing of good cause, one continuance of each required hearing. All subsequent continuances shall be granted at the discretion of the body conducting the public hearing and upon a finding that good cause has been shown for the continuance.
5. **CLOSURE OF PUBLIC HEARING AND ACCEPTANCE OF WRITTEN TESTIMONY AFTER CLOSURE.** If the hearing is not continued, it shall be closed. At the close of the hearing, the chairperson of the body conducting the hearing may leave the record open for a defined period of time during which only written comment will continue to be accepted. If no such time period is defined, no further written comment shall be accepted after the hearing is closed.

a. **NO EX PARTE COMMENTS ACCEPTED.** The chairperson shall announce that there shall be no *ex parte* comments accepted by members of the review or decision-making body.

b. **ALL WRITTEN COMMENTS RECEIVED BECOME PART OF RECORD.** All written comments, along with supporting data and references, received within the specified comment period shall be made a part of the record and shall be available for public inspection at the Planning Department when the hearing was conducted by the Planning Commission. When the hearing was conducted by the Board, copies of all such comments shall be available at the Administration Office. All timely written submittals shall be made a part of the record of the proceeding.

6. **RECORD OF PUBLIC HEARING.** The body conducting the public hearing shall record the public hearing by any appropriate means, including audiotape or videotape, and written minutes. The written and taped record of oral proceedings, including testimony and statements of personal opinions, the minutes of the hearing and other meetings of the review body, all applications, exhibits, and papers submitted in any proceeding before the decision-making, administrative, or review body, the Planning Department's report, and the decisions of the review and decision-making bodies, shall constitute the record. Those materials, on presentation to the County, shall become the public property of the County and shall not be removed from County possession without proper written authorization from the custodian of the record.

a. **MATERIALS ARE PART OF PUBLIC RECORD, AVAILABLE TO PUBLIC.** Said materials shall be public information, available to the public at the Planning Department or Administration office during regular business hours. The Department, as official custodian of those records, may make such rules with reference to the inspection of such records as are reasonably necessary for the protection of such records and the prevention of unnecessary interference with the regular discharge of the duties of the Planning Department.

SECTION 1-110: ENFORCEMENT AND PENALTIES.

A. OIL AND GAS OPERATIONS IN VIOLATION OF THESE REGULATIONS.

1. OIL AND GAS OPERATORS THAT HAVE NOT OBTAINED A PERMIT IN COMPLIANCE WITH THESE REGULATIONS OR DO NOT COMPLY WITH OIL AND GAS PERMIT REQUIREMENTS.

Any Operator engaging in Oil and Gas Operations who does not obtain an Oil and Gas Permit pursuant to these *Regulations*, who does not comply with Oil and Gas Permit requirements, or who acts outside the jurisdiction of the Oil and Gas Permit may be enjoined by the County from engaging in such Oil and Gas Operations and may be subject to such other criminal or civil liability as may be prescribed by law. In addition, if the County prevails in whole or part in any action, the Operator shall pay all reasonable attorney fees and expert costs incurred by the County.

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2. SUSPENSION OF OIL AND GAS PERMIT.

If the County determines at any time that there is a violation of the conditions of the Oil and Gas Permit or that there are material changes in an Oil and Gas Operation as approved by the permit, the Planning Director or designee may, for good cause temporarily suspend the Oil and Gas Permit. In such case, upon oral or written notification by the Planning Director or designee, the Operator shall cease operations immediately. The Planning Director or designee shall forthwith provide the Operator with written notice of the violation or identification of the changed condition(s). The Operator shall have a maximum of fifteen (15) days to correct the violation. If the violation is not timely corrected, the Permit may be further suspended pending a revocation hearing. The Operator may request an immediate hearing before the Board regarding the suspension. The Board shall hold the hearing within ten (10) days of the Operator's written request.

3. REVOCATION OF OIL AND GAS PERMIT.

The County may, following notice and hearing, revoke an Oil and Gas Permit granted pursuant to these *Regulations* if any of the activities conducted by the Operator violate the conditions of the Oil and Gas Permit or these *Regulations*, or constitute

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material changes in the Oil and Gas Operation approved by the County. The County shall provide written notice to the Operator of the violation or the material changes, and the time and date of the hearing. No less than thirty (30) days prior to the revocation hearing, the County shall provide written notice to the permit holder setting forth the violation and the time and date for the revocation hearing. Public notice of the revocation hearing shall be published in a newspaper of general circulation not less than thirty (30) days prior to the hearing. Following the hearing, the County may revoke the Oil and Gas Permit or may specify a time by which action shall be taken to correct any violations of the Oil and Gas Permit to avoid revocation.

- B. TRANSFER OF PERMITS.** An Oil and Gas Permit may be transferred only with the written consent of the County. The County shall ensure, in approving any transfer, that the proposed transferee can and will comply with all the requirements, terms, and conditions contained in the Oil and Gas Permit and these *Regulations*, and appropriate state and federal regulations and conditions, that such requirements, terms, and conditions remain sufficient to protect the health, welfare, and safety of the public, and the environment; and that an adequate guaranty of financial security can be timely made.
- C. INSPECTION.** The County may enter and inspect any property subject to these *Regulations* at reasonable hours for the purpose of determining whether an Oil and Gas Operation is in violation of the provisions of these *Regulations*.
- D. JUDICIAL REVIEW.** Any action seeking judicial review of a final decision of the County shall be initiated within thirty (30) days after the decision is made, in the District Court in and for the County of Gunnison, pursuant to Rule 106 of the Colorado Rules of Civil Procedure.
- E. NO REVIEW OR APPROVAL FOR PERSONS SUBJECT TO ENFORCEMENT ACTION.** No permit application shall be processed or approved pursuant to these *Regulations* for an Operator, or for property that is subject to an ongoing enforcement action.

SECTION 1-111: PERMIT DURATION.

A. **COMMENCEMENT OF OPERATION.** The Operation shall be commenced within one year of the issuance of an Oil and Gas Permit under these *Regulations* or the Permit shall terminate and be of no force and effect.

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B. **COMPLETION OF OPERATION.** The Operation shall be completed within one (1) year of commencement of Operation under these *Regulations* unless a greater period of time is agreed to by the County in writing prior to the expiration of one year. At the end of one year or such additional term that may be agreed to by the County, the Permit shall terminate and be of no force and effect, and any land disturbance shall be reclaimed immediately.

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SECTION 1-112: AMENDING THESE TEMPORARY REGULATIONS.

A. **PURPOSE.** The purpose of this Section is to provide a process by which the Board may, from time to time, amend, supplement or repeal these Regulations.

B. **INITIATION.** An amendment to these Temporary Regulations may be initiated by the Board, or by the Planning Commission.

C. **PROCESS.** The following process shall apply to an application for an amendment to these Temporary Regulations:

1. **BOARD MOTION.** The Board may initiate an amendment by motion directing the Planning Director to submit a proposed amendment and report to the Planning Commission for review and for further action pursuant to this Section.

2. **PLANNING COMMISSION INITIATIVE.** The Planning Commission may initiate an amendment by submitting a written recommendation for proposed amendment to the Board. If the Board chooses to go forward the Planning Commission initiative the Board shall direct the Planning Director to submit a report to the Planning Commission for review and further action pursuant to this Section.

3. **REVIEW BY PLANNING COMMISSION.** The Planning Commission shall review the report of the Planning Director. The Planning Commission shall consider the Standards below and shall make a recommendation to the Board to approve, approve with modification, table for further study or deny the proposed amendment.

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4. **BOARD PUBLIC HEARING.** The Planning Commission's recommendation shall be forwarded to the Board, together with a complete copy of the Planning Director's report and the Board shall conduct a public hearing within 14 days of receipt of the recommendation.

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5. **BOARD REVIEW AND ACTION.** The Board shall consider the proposed language, any relevant support materials, the Planning Director's report, the Planning Commission's recommendation, the public testimony and evidence given at the public hearing, and compliance of the language with standards below. Following closure of the public hearing, the Board may, by written resolution, adopt the amendment, adopt the amendment with modifications, table for further study or deny the amendment. Such resolution shall include findings that address the review standards below.

D. **REVIEW STANDARDS.** The wisdom of amending the text of these Temporary Regulations is a matter committed to the legislative discretion of the Board of County Commissioners and is not controlled by any one factor. In determining whether to adopt the proposed amendment, adopt the amendment with modifications, table for further study or deny the amendment, the Board of County Commissioners shall consider among other factors the following:

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1. **CONSISTENCY WITH ANY COMPREHENSIVE PLAN ADOPTED BY GUNNISON COUNTY.** Consistency of the proposed amendment with any comprehensive plan that may be adopted by Gunnison County;
2. **CHANGED CONDITIONS.** Changed conditions, including the economy of Gunnison County;
3. **EFFECT ON THE NATURAL ENVIRONMENT.** Effect of the proposed amendment on the natural environment;
4. **COMMUNITY NEEDS.** Community needs;
5. **DEVELOPMENT PATTERN.** Development pattern;
6. **CHANGES IN OR CLARIFICATION TO APPLICABLE LAW.** Changes in or clarification to applicable law;
7. **PUBLIC HEALTH, SAFETY AND WELFARE.** Public health, safety and welfare;

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8. COMPLIANCE WITH ANY APPLICABLE INTERGOVERNMENTAL AGREEMENTS ADOPTED BY GUNNISON COUNTY. Compliance with any applicable intergovernmental agreements adopted by Gunnison County.

SECTION 1-113: DEFINITIONS.

Where a term used in these *Regulations* is not defined, the definitions in Article 2 of the *Gunnison County Land Use Resolution* shall apply.

- B. Aggrieved Party.** The applicant, the owner of the subject property, or any person, or member of the public.
- C. Board.** The Board of County Commissioners of Gunnison County, Colorado.
- D. County.** Gunnison County, Colorado, its officers, employees and agents.
- E. Degradation.** Lowering in grade or desirability; lessening in quality.
- F. Flowlines.** Also known as or called gathering lines. Those segments of pipe from the wellhead downstream through the production facilities ending at:
1. In the case of gas lines, the gas metering equipment; or
 2. In the case of oil lines, the oil loading point or LACT unit; or
 3. In the case of water lines, the water loading point, the point of discharge to a pit, or the injection wellhead.
- G. Ground Water.** Subsurface waters in a zone of saturation.
- H. ~~Non-Point Source (NPS) Pollution.~~** ~~Pollution that is caused by or attributable to diffuse sources. Typically, NPS pollution results from land runoff, precipitation, atmospheric deposition, or percolation.~~
- I. Oil and Gas Operations.** Exploration for oil or gas, including but not limited to conventional oil and gas and coalbed methane gas; the siting, drilling, deepening, recompletion, reworking, refracturing or abandonment of an oil and gas well; production facilities and Operations including the installation of flow lines and gathering

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lines; construction, site preparation, reclamation and related activities associated with the development of oil and gas resources.

V

J. Operation. Oil and Gas Operations.

K. Operational Conflict. The application of the County standard would, as a matter of law, material impede or destroy the state interest in oil and gas or would stand as an obstacle to accomplishment and execution of congressional purposes.

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L. Operator. The applicant, a parent or subsidiary entity or person, or an entity that has a financial interest in the Operation.

M. Parcel. A tract or lot of land upon which the Operation will occur.

N. Person. Any individual, partnership, corporation, association, company, or other public or corporate entity, including but not limited to the State or Federal governments, and any of their political subdivisions, agencies, or instrumentalities.

O. Planning Commission. Gunnison County Planning Commission.

P. Production Facilities. All storage, separation, treating, dehydration, artificial lift, power supply, compression, pumping, metering, monitoring, flowline, and other equipment directly associated with oil wells, gas wells, or injection wells.

Q. Referral Agency. An agency, organization, or technical consultant deemed appropriate and necessary, by the County, to review an application and provide professional analysis and recommendations, including without limitation other County offices and departments, municipal, state, or federal agencies having an interest in or authority over all or part of the application or permit and legal consultants.

R. Regulation(s). These Temporary Regulations for Oil and Gas Operations.

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S. Sensitive Wildlife Habitat. A natural or man-made environment that contains the elements of food, shelter, water, and space in a combination and quantity necessary to sustain one or more wildlife or plant species at stable population levels in historically-used habitats. Sensitive wildlife habitat areas include, but are not limited to, nesting, brood rearing areas, rookeries, leks, migration

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corridors, calving and fawning grounds for big game; critical winter range for big game and for sage grouse.

T. Significant. Of considerable or substantial consequence.

U. Site. An area one mile in radius around an existing or proposed well pad.

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V. Significant Adverse Effect/Impact. An impact of an action, after mitigation, that is considerable or substantial, and unfavorable or harmful; includes social, economic, physical, health, aesthetic and historical impact, and biological impacts including but not limited to, effects on natural resources or the structure or function of affected ecosystems.

W. WATER BODY. A perennial or intermittent river, stream, lake reservoir, pond, spring, or wetland but does not include irrigation ditches or roadway drainage ditches or artificial lakes or ponds or wetlands that are created and used for the primary purpose of agricultural operations. Water bodies in Gunnison County include but are not limited to:

- Anthracite Creek
- Brush Creek (all locations)
- Carbon Creek
- Carbonate Creek
- Cebolla Creek
- Cement Creek
- Cimarron Creek
- Coal Creek
- Cochetopa Creek
- Copper Creek
- Crystal River
- East River
- Farris Creek
- Gold Creek
- Gunnison River (including North Fork and Lake Fork)
- Henderson Creek
- Illinois Creek
- Lottis Creek
- Muddy Creek
- Ohio Creek
- Pine Creek (all locations)
- Quartz Creek
- Red Creek

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- Slate River
- Soap Creek
- Spring Creek
- Steuben Creek
- Taylor River
- Texas Creek
- Tomichi Creek
- Washington Gulch
- Willow Creek
- Yule Creek

•**WATER BODY-RELATED TERMS:**

•**INTERMITTENT RIVER, STREAM, LAKE, RESERVOIR, POND, SPRING OR WETLAND.** A water body that normally holds water or flows at least 60 days a year as a result of ground water discharge or surface runoff.

•**NATURAL WATER BODY.** A water body not created for the purpose of a land use change.

•**PERENNIAL RIVER, STREAM, LAKE, RESERVOIR, POND, SPRING OR WETLAND.** A water body that normally holds water or flows continuously during all of the year as a result of ground water discharge or surface runoff.

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<#>Well. An oil or gas well, a hole drilled for the purpose of producing oil or gas, a well into which fluids are injected, a stratigraphic well, a gas storage well, or a well used for the purpose of monitoring or observing a reservoir. ¶

¶

Well Site. The areas which are directly disturbed during the drilling and subsequent Operation of, or affected by production facilities directly associated with, any oil well, gas well, or injection well. ¶

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~~impacts of the Operation to surface water, water wells and
groundwater quality within one mile of the parcel.~~

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~~**POINTS OF COMPLIANCE.** A map showing points
of compliance with State water quality standards that
will be established by the Colorado Oil and Gas
Conservation Commission.~~

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FINANCIAL GUARANTEES. Financial security shall be provided by the
Operator to guaranty any mitigation required by the County as a
condition of approval of an Oil and Gas Permit. The Operator shall
enter into a Security Agreement with the County consistent with the
following:

- 1. DEVELOPMENT IMPROVEMENT AGREEMENT SHALL
BE REQUIRED.** When mitigation is a required component of
an Oil and Gas Permit, the Board shall require as a condition
of permit approval that the Operator execute and fund with
Gunnison County a Development Improvement Agreement
acceptable to Gunnison County in form and substance, and
amount and type of security. The Development Improvement
Agreement shall constitute the Operator's agreement to
perform all conditions, identified as requirements of Permit
approval. The Development Improvement Agreement shall
specifically identify such requirements including plans,
drawings and schedules for completion and shall be
substantially in the form referenced in Appendix A, attached
hereto and incorporated herein.

FINANCIAL SECURITY. The Development Improvement
Agreement shall require the Operator to provide to the
County a guarantee of financial security, acceptable to the
County, in an amount established by the Board based on no
less than 125 percent of the estimated cost of the conditions
to be performed, and payable on demand to the County. The
purpose of the guarantee of financial security is to assure
that the public and private improvements, and all other
conditions identified as requirements of Permit approval are
timely and fully completed, that all mitigation requirements

and permit conditions are timely and fully performed, and that all impacted areas are timely and fully reclaimed.

3. **ENSURED COMPLETION OF CONDITIONS.** The Development Improvement Agreement shall provide that if the Board determines that any of the required conditions are not performed as provided in the Agreement, including reasonable requirements for the correction of deficiencies upon notice thereof, the Board may draw upon the financial security as may be necessary to complete the improvements in accordance with the specifications included in the Agreement and the Board may exercise any or all of the other remedies available to it pursuant to the Agreement and these *Regulations*.

CERTIFICATION OF COMPLETION AND RELEASE OF SECURITY. The Development Improvement Agreement may include requirements for certification of completion, partial releases of the security, hold-over of security to ensure repairs or replacement, demonstrated performance of required facilities, substitution of security, and other requirements deemed appropriate by the Board.

FORM OF AGREEMENT. A general form of the Development Improvement Agreement may be obtained from the County Attorney's office. This form of agreement may be modified from time to time by the County at its discretion without formal amendment to this *Regulation*.